IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.544 OF 2005

The Borivali Education Society Petitioners

versus

The Mumbai Municipal Corporation
and others Respondents

Mr.V.R.Dhond with Y.P.Yagnik for petitioners.

N.V.Walawalkar with Ms.P.A.Purandare for respondent no.1.

Vineet Naik with Hitendra Venegavkar for respondent no.3.

CORAM : H.L.GOKHALE AND
S.C.DHARMADHIKARI, JJ.

DATE : 21st April 2005

PC :

1. Heard Mr.Dhond in support of this petition, Mr.Walawalkar for respondent no.1 and Mr.Naik for respondent no.2 society. Petitioner was allotted a certain plot of land in Borivali for setting up a college of the petitioner educational institution. Petitioner society did not take the necessary steps within the time expected. The land belongs to Municipal Corporation. In the mean while there have been number of

encroachments. The Corporation has, therefore, decided to entrust the said plot to a developer supported by respondent no.2 housing society floated by the hutment dwellers.

2. We have gone through the petition, reply, rejoinder and other documents on record and prima facie, we do not find that the decision of the Corporation is in any way erroneous. The Corporation has offered to return the amount which has been received from the petitioner society. The petitioner society has refused to accept the same. However, petitioner society is at liberty to collect the same.

3. Inasmuch as the interest of the petitioner society was to set up a college, we asked Mr.Walawalkar, learned counsel for Corporation to take instructions as to whether the building when constructed will be entrusted to the petitioner to run it’s college? He has received a latter from the Deputy Law Officer of Municipal Corporation which states that at the time of allotment of the college building constructed under S.R.A. Scheme, the petitioner society shall be given preference and a detailed note is submitted to the A.M.C.(P) and approval from

Municipal Commissioner is also sought for such preference. The Corporation will write accordingly to the petitioner. We expect the petitioner society to put up a proposal to the Corporation on the building being constructed and as assured by Mr.Walawalkar, the proposal will be given due consideration. Petition stands disposed of. The terms and conditions of the running of college will be all to be decided between the Municipal Corporation and whichever entity is decided as party to run the college. Ad-interim order granted earlier will stand vacated.

(H.L.GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)